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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,670	06/18/2001	Ryuichi Matsuda	209667US-2	7193

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EXAMINER	
ALEJANDRO MULERO, LUZ L	

ART UNIT	PAPER NUMBER
1763	

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/881,670	MATSUDA ET AL.	
	Examiner	Art Unit	
	Luz L. Alejandro	1763	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☒ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). *0404*.

10. ☐ Other: _____

Luz L. Alejandro
Primary Examiner
Art Unit: 1763

Continuation of 5. does NOT place the application in condition for allowance because: Applicant argues that the rejection of the claims in view of Lee and Hemker is a new ground of rejection "and, therefore, should result in the issuance of a non-final rejection". However, the examiner respectfully directs applicants to the amendment filed on 04/20/04 where the independent claims were amended. Therefor the finality of the rejection is proper and is respectfully maintained.
Applicant argues that in the instant claimed invention, "the respective coils are arranged parallel to one another, where the vertical distance L between the coils can be adjusted to vary mutual inductances so that the distribution of energy absorbed to the plasma is adjusted. By being able to vary mutual inductances (by adjusting a distance L between the coils), ...". Furthermore, applicant argues that "In Holland, the distance between the coils is fixed and therefore is not configured to vary mutual inductances as recited in Applicants' claimed inventions.". Additionally, applicant argues that "with the claimed invention, desired adjustments can be made by changing the height position of a predetermined coil.". Also, applicant argues that "the coils of Hemker are not vertically adjustable as in Applicants' claimed invention.". However, it is noted that the features upon which applicant relies (i.e., the vertical distance L between the coils can be adjusted to vary mutual inductances so that the distribution of energy absorbed to the plasma is adjusted, being able to vary mutual inductances by adjusting a distance L between the coils, adjustments can be made by changing the height position of a predetermined coil, and the coils being vertically adjustable) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Additionally, it should be noted that the instant claimed invention is directed to an apparatus and therefore the structure of the apparatus for adjusting the distance between the coils, in order to vary mutual inductances, needs to be claimed (the claims of the instant application do not recite any apparatus structure for adjusting the distance between the coils). Furthermore, note that Holland suggest varying the thicknesses of respective coils so as to vary mutual and self inductances (see col. 13-line 46 to col. 14-line 9), and therefore, as broadly claimed, the reference does suggest the variation of the mutual inductances.
In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981) In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).
In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See In re McLaughlin, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971)..